

House File 617 - Reprinted

HOUSE FILE 617
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO HSB 187)

(As Amended and Passed by the House March 15, 2011)

A BILL FOR

1 An Act relating to matters under the purview of the alcoholic
2 beverages division of the department of commerce, including
3 alcoholic beverage permits and licenses and administrative
4 provisions, modifying fees, and including effective date
5 provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 123.3, Code 2011, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 014A. "*Grocery store*" means any retail
4 establishment, the business of which consists of the sale of
5 food, food products, or beverages for consumption off the
6 premises.

7 NEW SUBSECTION. 022A. "*Micro-distilled spirits*" means
8 distilled spirits fermented, distilled, or, for a period of
9 two years, barrel matured on the licensed premises of the
10 micro-distillery where fermented, distilled, or matured.
11 "*Micro-distilled spirits*" also includes blended or mixed spirits
12 comprised solely of spirits fermented, distilled, or, for a
13 period of two years, barrel matured at a micro-distillery.

14 NEW SUBSECTION. 022B. "*Micro-distillery*" means a business
15 with an operational still which, combining all production
16 facilities of the business, produces and manufactures less than
17 fifty thousand proof gallons of distilled spirits on an annual
18 basis.

19 NEW SUBSECTION. 26A. "*Pharmacy*" means a drug store in
20 which drugs and medicines are exposed for sale and sold at
21 retail, or in which prescriptions of licensed physicians and
22 surgeons, dentists, or veterinarians are compounded and sold by
23 a registered pharmacist.

24 NEW SUBSECTION. 32A. "*School*" means a public or private
25 school or that portion of a public or private school which
26 provides facilities for teaching any grade from kindergarten
27 through grade twelve.

28 Sec. 2. Section 123.3, subsection 14A, Code 2011, is amended
29 to read as follows:

30 14A. "*High alcoholic content beer*" means beer which contains
31 more than five percent of alcohol by weight, but not more
32 than twelve percent of alcohol by weight, that is made by the
33 fermentation of an infusion in potable water of barley, malt,
34 and hops, with or without unmalted grains or decorticated and
35 degerminated grains. Not more than one and five-tenths percent

1 of the volume of a "high alcoholic content beer" may consist
 2 of alcohol derived from added flavors and other nonbeverage
 3 ingredients containing alcohol. The added flavors and other
 4 nonbeverage ingredients may not include added caffeine or other
 5 added stimulants including but not limited to guarana, ginseng,
 6 and taurine.

7 Sec. 3. Section 123.3, subsection 22A, Code 2011, is amended
 8 to read as follows:

9 22A. "Native wine" means wine manufactured ~~in this state~~
 10 pursuant to section 123.56 by a manufacturer of native wine.

11 Sec. 4. Section 123.6, Code 2011, is amended to read as
 12 follows:

13 **123.6 Appointment — term — expenses — compensation.**

14 Appointments shall be for five-year staggered terms
 15 beginning and ending as provided by section 69.19 and shall be
 16 made by the governor, subject to confirmation by the senate.
 17 Members of the commission shall be chosen on the basis of
 18 managerial ability and experience as business executives.
 19 ~~One member~~ Not more than two members of the commission may
 20 be the holder of or have an interest in a permit or license
 21 to manufacture alcoholic liquor, wine, or beer or to sell
 22 alcoholic liquor, wine, or beer at wholesale or retail. A
 23 member may be reappointed for one additional term. Each member
 24 appointed is entitled to receive reimbursement of actual
 25 expenses incurred while attending meetings. Each member of
 26 the commission may also be eligible to receive compensation as
 27 provided in section 7E.6.

28 Sec. 5. Section 123.9, Code 2011, is amended to read as
 29 follows:

30 **123.9 Commission meetings.**

31 The commission shall meet on or before July 1 of each year
 32 for the purpose of selecting one of its members as chairperson,
 33 ~~which member shall serve in such capacity~~ for the succeeding
 34 year. The commission shall otherwise meet quarterly or at
 35 the call of the chairperson or administrator or, when any

1 three members file ~~with the chairperson~~ a written request
2 for a meeting. Written notice of the time and place of each
3 meeting shall be given to each member of the commission. ~~All~~
4 ~~commission meetings shall be held within the state.~~ A majority
5 of the commission members shall constitute a quorum.

6 Sec. 6. Section 123.30, subsection 3, paragraph e,
7 subparagraph (1), Code 2011, is amended to read as follows:

8 (1) A class "E" liquor control license may be issued and
9 shall authorize the holder to purchase alcoholic liquor from
10 the division only and high alcoholic content beer from a class
11 "AA" beer permittee only and to sell the alcoholic liquor and
12 high alcoholic content beer to patrons for consumption off
13 the licensed premises and to other liquor control licensees.
14 ~~A class "E" license shall not be issued to premises at which~~
15 ~~gasoline is sold.~~ A holder of a class "E" liquor control
16 license may hold other retail liquor control licenses or
17 retail wine or beer permits, but the premises licensed under a
18 class "E" liquor control license shall be separate from other
19 licensed premises, though the separate premises may have a
20 common entrance. However, the holder of a class "E" liquor
21 control license may also hold a class "B" wine or class "C"
22 beer permit or both for the premises licensed under a class "E"
23 liquor control license.

24 Sec. 7. Section 123.31, unnumbered paragraph 1, Code 2011,
25 is amended to read as follows:

26 ~~Except as otherwise provided in section 123.35, verified~~
27 Verified applications for the original issuance or the renewal
28 of liquor control licenses shall be filed at the time and in
29 the number of copies as the administrator shall prescribe, on
30 forms prescribed by the administrator, and shall set forth
31 under oath the following information:

32 Sec. 8. Section 123.36, subsection 8, Code 2011, is amended
33 to read as follows:

34 8. a. Class "E" liquor control license, a sum determined
35 as follows:

1 (1) For licensed premises at which gasoline is not sold, a
2 sum of not less than seven hundred and fifty dollars, and not
3 more than seven thousand five hundred dollars as determined
4 on a sliding scale as established by the division taking into
5 account the factors of square footage of the licensed premises,
6 the location of the licensed premises, and the population of
7 the area of the location of the licensed premises.

8 (2) For licensed premises at which gasoline is sold, a sum
9 equal to the following:

10 (a) For premises located within the corporate limits of a
11 city with a population of less than one thousand five hundred,
12 three thousand five hundred dollars.

13 (b) For premises located within the corporate limits of a
14 city with a population of at least one thousand five hundred
15 but less than ten thousand, five thousand dollars.

16 (c) For premises located within the corporate limits of a
17 city with a population of ten thousand population or more, the
18 greater of five thousand dollars or the amount that would be
19 established pursuant to subparagraph (1) if gasoline were not
20 sold at the premises.

21 (d) For premises located outside the corporate limits of
22 any city, a sum equal to that charged in the incorporated city
23 located nearest the premises to be licensed. If there is doubt
24 as to which of two or more differing corporate limits is the
25 nearest, the license fee which is the largest shall prevail.
26 However, if the premises is located in an unincorporated town,
27 for purposes of this subparagraph, the unincorporated town
28 shall be treated as if it is a city.

29 b. Notwithstanding subsection 5, the holder of a class
30 "E" liquor control license may sell alcoholic liquor for
31 consumption off the licensed premises on Sunday subject to
32 section 123.49, subsection 2, paragraph "b".

33 Sec. 9. Section 123.43A, subsection 1, Code 2011, is amended
34 by striking the subsection.

35 Sec. 10. Section 123.46, subsection 1, paragraph d, Code

1 2011, is amended by striking the paragraph.

2 Sec. 11. Section 123.56, Code 2011, is amended by adding the
3 following new subsection:

4 NEW SUBSECTION. 6A. A manufacturer may use the space
5 and equipment of another manufacturer for the purpose of
6 manufacturing native wine, provided that such an alternating
7 proprietorship arrangement is approved by the alcohol and
8 tobacco tax and trade bureau of the United States department
9 of the treasury. A separate class "A" wine permit shall be
10 issued to each manufacturer, and each manufacturer shall be
11 subject to the provisions of this chapter and the rules of the
12 division. Notwithstanding subsection 5, not more than one
13 class "C" native wine permit shall be issued to a premises with
14 alternating proprietorships.

15 Sec. 12. Section 123.129, subsection 1, Code 2011, is
16 amended by striking the subsection.

17 Sec. 13. Section 123.134, subsection 5, Code 2011, is
18 amended by striking the subsection.

19 Sec. 14. Section 123.141, Code 2011, is amended to read as
20 follows:

21 **123.141 Keeping liquor where beer is sold.**

22 No alcoholic liquor for beverage purposes shall be used,
23 or kept for any purpose in the place of business of class "B"
24 permittees, or on the premises of such class "B" permittees, at
25 any time. A violation of any provision of this section shall
26 be grounds for suspension or revocation of the permit pursuant
27 to section 123.50, subsection 3. This section shall not apply
28 in any manner or in any way, ~~to any railway car of any dining~~
29 ~~car company, sleeping car company, railroad company or railway~~
30 ~~company, having a special class "B" permit,~~ to the premises
31 of any hotel or motel for which a class "B" permit has been
32 issued, other than that part of such premises regularly used by
33 the hotel or motel for the principal purpose of selling beer
34 or food to the general public; or to drug stores regularly and
35 continuously employing a registered pharmacist, from having

1 alcohol in stock for medicinal and compounding purposes.

2 Sec. 15. Section 123.142, unnumbered paragraph 1, Code
3 2011, is amended to read as follows:

4 It is unlawful for the holder of a class "B" or class "C"
5 permit issued under this chapter to sell beer, except beer
6 brewed on the premises covered by a special class "A" permit or
7 beer purchased from a person holding a class "A" permit issued
8 in accordance with this chapter, and on which the tax provided
9 in section 123.136 has been paid. However, this section does
10 not apply to ~~the holders of special class "B" permits issued~~
11 ~~under section 123.133 for sales in cars engaged in interstate~~
12 ~~commerce nor to~~ class "D" liquor control licensees as provided
13 in this chapter.

14 Sec. 16. REPEAL. Sections 123.35, 123.133, 123.153,
15 123.154, 123.155, 123.156, 123.157, 123.158, 123.159, 123.160,
16 123.161, and 123.162, Code 2011, are repealed.

17 Sec. 17. EFFECTIVE UPON ENACTMENT. The section of this
18 Act amending section 123.3, subsection 14A, regarding the
19 definition of high alcoholic content beer, being deemed of
20 immediate importance, takes effect upon enactment.